

**Notice of Allowability**

Application No.

09/765,218

Examiner

Prieto Beatriz

Applicant(s)

HALLER ET AL.

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/22/06.
2. ☒ The allowed claim(s) is/are 32,34 and 35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**BEATRIZ PRIETO**  
PRIMARY EXAMINER

### ***Examiner's Amendment***

1. An Examiner's Amendment to the record appears below. Should the changes or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.
2. The terminal disclaimer filed on 6/22/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,804,558 issued Oct 12, 2004 has been reviewed and is accepted. The terminal disclaimer has been recorded.
3. Applicant was contact by examiner requesting authorization to submit the hereby examiner's amendment to correct minor informalities noted in the claims. Authorization was granted by Paul H. McDowall (Reg. No. 34,873) on July 12, 2006.
4. **PLEASE AMEND CLAIMS AS NOTED BELOW.**
5. Any comments Applicants considers necessary must be submitted no later than the payment of the Issue Fee and to avoid processing delays, should preferable accompany the Issue Fees. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance". In event of any post-allowance papers (e.g. IDS, 312 amendment, petition, etc.), Applicant is exhorted to mail papers to the Production Control branch in Publications or faxed to post-allowance papers correspondence branch at (703) 308-5864 to expedite issuing process or call PUB's Customer Service if any questions at (703) 305-8497.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Andrew T. Caldwell can be reached at (571) 272-3868. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the General Information/Receptionist whose telephone number is (371) 272-2100 and fax is number is (571) 273-8300.

**CLAIMS:**

1-31 (canceled)

32. (currently amended) A computer readable medium for storing instructions for performing a method, said method involving generating an invoice for the provision of medical services relating to communicating information between an implantable medical device (IMD) implanted in a patient and a remote computer system, the method utilizing a system for at least one of monitoring the performance of the IMD, monitoring the health of the patient and remotely delivering a therapy to the patient through the IMD, the IMD being capable of bi-directional communication with a communication module located external to the patient's body, the system comprising the IMD, the communication module, a mobile telephone capable of being operably connected to the communication module and capable of receiving information therefrom or relaying information thereto, means for generating an invoice in response to information relating to the IMD being relayed or transmitted from or to the mobile telephone, a remote computer system, and a communication system capable of bi-directional communication with the mobile telephone and the remote computer system, the computer readable medium comprising:

- (a) software encoded instructions for operating the IMD to determine whether medical attention should be provided;
- (b) in response to the determination made in step (a), software encoded instructions for uploading data from the IMD to the communication module;
- (c) software encoded instructions for transferring the data from the communication module to the mobile telephone and thence on to the remote computer system via the communication system;
- (d) software encoded instructions for remotely analyzing the data;
- (e) software encoded instructions for determining on the basis of the analyzed data whether remedial action respecting at least one of the IMD and the patient is required;
- (f) software encoded instructions for remotely executing the determined remedial action via the communication system, and
- (g) software encoded instructions for automatically generating an invoice in response to at least one of steps (a), (b), (c), (d), (e) and (f) being carried out,

wherein the communications module is adapted to detect whether at least one of a component defect and a software defect exists within one of the IMD and the remote computer system, and in the event that the component defect or software defect is detected, software encoded instructions for determining whether a remote repair is available, and if not, software encoded instructions for

simultaneously broadcasting an alert to: a remote health care provider, a remote computer, a remote expert-based computer system.

33. (canceled)

34. (currently amended) An apparatus, comprising:

means for generating an invoice for the provision of medical services relating to communicating information between an implantable medical device (IMD) implanted in a patient and a remote computer system, said means utilizing a system for at least one of monitoring the performance of the IMD, monitoring the health of the patient and remotely delivering a therapy to the patient through the IMD, the IMD being capable of bi-directional communication with a communication module located external to the patient's body, the system comprising the IMD, the communication module, a mobile telephone capable of being operably connected to the communication module and including means for receiving information therefrom and means for relaying information thereto,

means for generating an invoice in response to information relating to the IMD being relayed or transmitted from or to the mobile telephone,

a remote computer system, and

a communication system capable of bi-directional communication with the mobile telephone and the remote computer system, said communication system further comprising:

(a) means for operating the IMD to determine whether medical attention should be provided;

(b) in response to the determination made in step (a), means for uploading data from the IMD to the communication module;

(c) means for transferring the data from the communication module to the mobile telephone and thence on to the remote computer system via the communication system;

(d) means for remotely analyzing the data;

(e) means for determining on the basis of the analyzed data whether remedial action respecting at least one of the IMD and the patient is required;

(f) means for remotely executing the determined remedial action via the communication system, and

(g) means for automatically generating an invoice in response to at least one of steps (a), (b), (c), (d), (e) and (f) being carried out,

wherein the communications module is adapted to detect whether at least one of a component defect and a software defect exists within one of the IMD and the remote computer system, and

wherein in the event that the component defect or software defect is detected, implementing means for determining whether a remote repair is available, and if not, means for simultaneously broadcasting an alert to: a remote health care provider, a remote computer, a remote expert-based computer system.

35. (currently amended) A method, comprising:

generating an invoice for the provision of medical services relating to communicating information between an implantable medical device (IMD) implanted in a patient and a remote computer system, said method utilizing a system for at least one of monitoring the performance of the IMD;

monitoring the health of the patient; and

remotely delivering a therapy to the patient through the IMD, wherein said IMD is capable of bi-directional communication with a communication module located external to the patient's body,

wherein said system further comprises:

the IMD;

the communication module;

a mobile telephone capable of being operably connected to the communication module and capable of receiving information therefrom or relaying information thereto;

means for generating an invoice in response to information relating to the IMD being relayed or transmitted from or to the mobile telephone,

a remote computer system; and

a communication system capable of bi-directional communication with the mobile telephone and the remote computer system, said method further comprising:

(a) operating the IMD to determine whether medical attention should be provided;

(b) in response to the determination made in step (a), uploading data from the IMD to the communication module;

(c) transferring the data from the communication module to the mobile telephone and thence on to the remote computer system via the communication system;

(d) remotely analyzing the data;

(e) determining on the basis of the analyzed data whether remedial action respecting at least one of the IMD and the patient is required;

(f) remotely executing the determined remedial action via the communication system, and

(g) automatically generating an invoice in response to at least one of steps (a), (b), (c), (d), (e) and (f) being carried out,

wherein the communications module is adapted to detect whether at least one of a component defect and a software defect exists within one of the IMD and the remote computer system, and in the event that the component defect or software defect is detected, determining whether a remote repair is available, and if not, simultaneously broadcasting an alert to: a remote health care provider, a remote computer, a remote expert based computer system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Andrew T. Caldwell can be reached at (571) 272-3868. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free)).

Any response to this action should be mailed to:  
Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Hand carried or delivered to:  
Customer Service Window located at the Randolph Bldg.  
401 Dulany St.  
Alexandria, VA 22314

Faxed to the Central Fax Office:  
(571) 273-8300 (New Central Fax No.)

Or Telephone:  
  
(571) 272-2100 for TC 2100 Customer Service Office.

B. Prieto  
Primary Examiner  
TC 2100  
July 20, 2006

  
BEATRIZ PRIETO  
PRIMARY EXAMINER